United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

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No. 23-5154   September Term, 2023

1:19-cv-02367-ABJ

Filed On: September 1, 2023

In re: Merrick B. Garland, in his official
capacity as Attorney General, et al.,

          Petitioners

BEFORE: Henderson*, Pillard, and Childs, Circuit Judges

O R D E R

Upon consideration of the petition for writ of mandamus, the opposition thereto, and the reply, it is

ORDERED that the petition for writ of mandamus be denied. Petitioners have not shown that they are entitled to the extraordinary remedy of mandamus. Cheney v. U.S. Dist. Court, 542 U.S. 367, 380 (2004). Petitioners contend that the district court committed a "clear abuse of discretion," In re Clinton, 973 F.3d 106, 111 (D.C. Cir. 2020) (internal quotation marks omitted), by authorizing respondents to depose former President Trump. Before authorizing the deposition, however, the district court held multiple hearings on the relevant issues, considered several rounds of additional briefing, and required respondents to exhaust other means of obtaining the information they sought. The district court limited the deposition to two hours, and to a narrow set of topics it identified. Having employed particular "deference and restraint" considering the separation-of-powers concerns at issue, see Nixon v. Fitzgerald, 457 U.S. 731, 753 (1982), the district court ultimately concluded that "extraordinary circumstances" warranted the deposition of the former President. See Simplex Time Recorder Co. v. Sec'y of Labor, 766 F.2d 575, 586 (D.C. Cir. 1985); see also In re Cheney, 544 F.3d 311, 314 (D.C. Cir. 2008). Under these circumstances, petitioners have not shown that the district court's conclusion was a clear abuse of discretion warranting mandamus relief.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY: /s/
Lynda M. Flippin
Deputy Clerk

* Judge Henderson would grant the petition for writ of mandamus.